

PUBLIC CHAPTER NO. 277

SENATE BILL NO. 262

By Haynes

Substituted for: House Bill No. 228

By Moore, Mike Turner, Miller, Sherry Jones, Hood, Fraley, Bibb, Curtiss, Pruitt, Gilmore, Sontany, Briley, Ulysses Jones, Larry Turner, Wilder, Rowe, Towns, Hackworth, Lois DeBerry, Armstrong, Ferguson, Litz, Coleman, Fincher, Fitzhugh, McDonald, West, Odom, Borchert, Vaughn, Cooper, Yokley, Pinion, Shepard, Hill, Crider, Strader, Roach, Harry Brooks, Bone, Shaw

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new part:

47-18-5201. This act shall be known and may be cited as the "Tennessee Truth in Music Advertising Act".

47-18-5202. As used in this act, unless the context otherwise requires:

(1) "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.

(2) "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

(3) "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a disc, tape, or other phono-record, in which the sounds are embodied.

47-18-5203. No person shall advertise or conduct a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association, between a performing group and a recording group. The prohibition contained in this section does not apply if:

(1) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;

(2) At least one (1) member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(3) The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the vocal or instrumental group performing is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public;

(4) The advertising does not relate to a live musical performance or production taking place in this state; or

(5) The performance or production is expressly authorized by the performing group.

47-18-5204. (a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act, compiled in part 1 of this chapter.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of trade or commerce and subject to the penalties and remedies as provided by such act. The Division of Consumer Affairs in the Department of Commerce and Insurance may assess a civil penalty of not less than five thousand dollars (\$5,000) nor more than fifteen thousand dollars (\$15,000) for a violation of the provisions of this part. For purposes of this part, each performance in violation of this part constitutes a separate violation of this part. The civil penalties recoverable by the State of Tennessee under this part are supplemental and cumulative to any other available civil or criminal penalties and relief available under other laws, regulations and rules, including, but not limited to, those available pursuant to § 47-18-108.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 14, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of May 2007



PHIL BREDESEN, GOVERNOR